

# State of Nevada

## Common-Interest Communities and Condominium Hotels Program

Department of Business & Industry Real Estate Division



8/26/2015



# Association Elections & Recall Elections

## Disclaimer

*This is a general education class based on NRS 116 and related regulations. It is NOT intended to provide legal advice. The CANNOT comment on specific cases.*

8/26/2015



# HOA Elections General Information



8/26/2015

# Objective: to educate about the HOA election process

- Elections and the transition of control from the declarant to unit owners
- How elections are typically conducted in a CIC/HOA
- Information regarding the 3-envelope, secret ballot system
- Removal elections
- Reporting Requirements
- Presented in a true false, multiple choice format

8/26/2015





# HOA Elections Facts

Upon transition from declarant control to unit owners, an association must hold an election in which the unit owners vote for a board of at least three members, all of whom must be unit owners.

Each association holds its elections in accordance with the association's bylaws.

Each member of executive board term may not exceed 3 years. Terms exceeding 1 year must be staggered.

At least 30 days before a ballot is prepared, a written notice is sent to unit owners advising them of their eligibility.



# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

Eligibility to be a candidate for or member of the executive board or an officer of a unit-owners' association

This act becomes effective on October 1, 2015.

Amendments to NRS 116.31034



# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

Notice » What Does SB 174 Require Of Married Board Members? (07/08/15)

[http://red.nv.gov/Content/Whats\\_New/Recent\\_Updates/](http://red.nv.gov/Content/Whats_New/Recent_Updates/)

What Married Board Members Should Do Before October 1, 2015:

As of October 1, 2015, married board members or those otherwise related or cohabitating as per the new Bill must decide between themselves which person will resign from the board to avoid being in violation of NRS 116.31034 as amended by SB 174 (2015). If one of them fails to resign, the association is obligated to prohibit them from serving on the board or as an officer

# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

- Section 9 Subsection (a)
- **Section 1.** NRS 116.31034 is hereby amended to read as follows:
- A person may not be a candidate for or member of the executive of the executive board or an officer of the association if:
- (1.)The person resides in a unit with,
- Is married to Is domestic partners with
- Is related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board

# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

- Section 9 Subsection (a) (2)

A person may not be a candidate for or member of the executive of the executive board or an officer of the association if:

(2.) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association

# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

Section 9 Subsection (a) (3) & Section 10 Subsection (a) (b)

(3.) A person, other than a person appointed by the declarant, who owns 75 or more of the units in an association may:

- (a) Be a candidate for or member of the executive board or an officer of the association; and
- (b) Reside in a unit with, be married, be domestic partners with or be related by blood, adoption or marriage with the third degree of consanguinity or affinity to another person who is also a board member, unless the person owning 75 percent or more of the units in the association would constitute a majority of the total number of seats on the executive board

# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

## Section 9 Subsection 12 (a) (b)

(12.) If a person is not eligible to be a candidate for or member of the executive board or an officer of the association pursuant to any provisions of this chapter, the association:

- (a) Must not place his or her name on the ballot; and
- (b) Must prohibit such a person from serving as a member of the executive board or an officer of the association



# HOA Candidate Facts

New 2015 Bill -Senate Bill 174

Notice » What Does SB 174 Require Of Married Board Members? (07/08/15)

[http://red.nv.gov/Content/Whats\\_New/Recent\\_Updates/](http://red.nv.gov/Content/Whats_New/Recent_Updates/)

What Married Board Members Should Do Before October 1, 2015:

## The Exceptions:

Married people, or those residing together or related by blood or adoption, may both be candidates for or members of the association's board or an officer only if the number of candidates running for the board is less than or equal to the number of open seats.

A person owning 75% or more of the units in an association may serve on the board with someone they live with, or are related to by blood, adoption or marriage, unless they constitute a majority of the board.

Declarant representatives are not subject to any restrictions.

# HOA Candidate Facts

Candidate's campaign may be limited to 90 days before the date the ballots are required to be returned to the association.

Candidates must disclose in writing any potential conflicts of interest (financial, business, professional)

Candidate must disclose whether or not they are in “good standing”. A candidate with any past due assessments or construction penalties is NOT in good standing.

The association distributes the disclosures to the owners with the ballots or in the next regular mailing of the association if no ballots are sent out.

Candidates are allowed a single page information statement be sent to all unit owners at the associations expense.



# HOA Candidate Facts

The candidate information statement:

Must be no longer than a single, typed page;

Must not contain any defamatory, libelous or profane information

May be sent with the secret ballot or in a separate mailing

Allow the candidate to communicate campaign material directly to the units' owners, provide to candidate , in paper format at a cost not to exceed 25 cents per page for first 10 pages and 10 cents per page thereafter, format of cd at not more than a cost of \$5 or by electronic mail at no cost



# HOA Candidate Facts

## Campaign Material:

Material sent by mail, candidate must provide association a separate copy of mailing before the campaign, and must pay the actual costs of mailing before the campaign material is mailed.

Material sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

Information must not include name of any unit's owner or any tenant of a unit's owner.

Candidate must sign written statement which states that the candidate is making the request to allow candidate to communicate directly to unit owners and will not use the information for any other purpose. (or association can refuse)

# HOA Election Facts

- Deemed Duly Elected Decision
- Before sending out notice of eligibility the association should make a determination whether or not it wants to exercise its right to cause the nominees to be duly elected should there be fewer nominees than open seats. Written election policy and added into meeting minutes.
- If the board elects this option and the number of candidates is equal to or less than the number of seats up for election, a second notice must be sent to unit owners informing them that ballots will not be mailed or prepared, and the nominated candidates will be deemed duly elected unless within 30 days after the second notice the number of candidates exceeds the number of open seats.

# HOA Election Facts

## Competitive Ballot election:

### Step 1: Prepare Ballots

\*Eligible unit owners who provided disclosure statement are placed on the ballot

### Step 2: Mail Ballots

\*Not less than 15 days before ballots are to be returned, the ballots and a return envelope must be sent via U.S. mail to each unit owner.

\*The association must include the disclosure statement and any candidate informational statements.

# HOA Election Facts

Competitive election:

## Step 3: Return Ballots

\*Each unit owner must be provided with at least 15 days after the mailing to return the ballot.

## Step 4: Count Ballots

Ballots must be opened and counted at a unit owners meeting. No quorum is required. Owners and board may observe counting but cannot be involved in counting if running for a position. Once results are official the ballots become association record and may be reviewed by all unit owners.

Officers are chosen by the board. (unless governing documents state otherwise)



# HOA Election Facts

## Removal of Board member:

Yes unit owners may remove a member from the board, with or without cause, by obtaining signatures representing 10% (or lower if the governing documents allow) of units on a petition to request removal.

The petitions must be mailed return receipt requested, or served by process server to the board or community manager.

The board is to send out secret ballots not less than 15 days and not more than 60 days before the removal election. The steps are the same as a regular election.

A removal election must be completed within 90 days of the petition.

To succeed in favor of removal (both of following required!)

1. At least 35 percent of all unit owners; and
2. At least a majority of all the votes cast in the removal election



# Declarant Ownership



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# Declarant releasing control

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter

- Other Circumstances
  - 5 years after new home sales cease
  - 5 years after the right to add units
  - Declarant voluntarily gives up control sooner



# New Assembly Bill 192

Revising certain provisions concerning a period of declarant's control of unit-owners association

Revising certain provisions relating to elections of the members of the executive board of a unit-owners association

Effective October 1, 2015

# New Assembly Bill 192

Section 1(a)(b)

Section 1. NRS 116.31032 is hereby amended to read as follows:

Regardless of the period provided in the declaration, a period of declarant's control terminates no later than the earliest of:

(a) *For a common-interest community with less than 1,000 units, 60* days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant;

(b) *For a common-interest community with 1,000 units or more, 60 days after conveyance of 90 percent of the units that may be created to units' owners other than a declarant;*

# New Assembly Bill 192

## Section 2 (a)(b)

### *2. For a common-interest community with:*

*(a) Less than 1,000 units, not* later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.

*(b) One thousand units or more, not later than 60 days after conveyance of 15 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant.*



# TRUE or FALSE?



*The declarant cannot appoint officers for the association.*







# TRUE or FALSE?



*There is a point that the declarant must terminate control .*

# Transition from Declarant Control

## *Less than 1,000 units*

- 25% of units sold ➡ 25% of the executive board must be owners
- 50% of units sold ➡ 33% of the executive board must be owners
- 75% of units sold ➡ Owners take control

**NRS 116.31032** Period of declarant's control of association; representation of units' owners on executive board

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# Transition from Declarant Control

## *One thousand units or more*

- 15% of units sold ➡ 25% of the executive board must be owners
- 50% of units sold ➡ 33% of the executive board must be owners
- 90% of units sold ➡ Owners take control

**NRS 116.31032** Period of declarant's control of association; representation of units' owners on executive board

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*Pick from the following the situations when a declarant will terminate control.*

A. Five years after all declarants have ceased to offer units for sale in the ordinary course of business

B. Five years after any right to add new units was last exercised;

C. Choices A , B, D all correct

D. The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

E. None of the above

## *True or False?*

# TRUE or FALSE?

The bylaws must:

Provide the number of members of the executive board and the titles of the officers of the association;

(b) Provide for election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(c) Specify the qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;

(d) Specify the powers the executive board or the officers of the association may delegate to other persons or to a community manager;

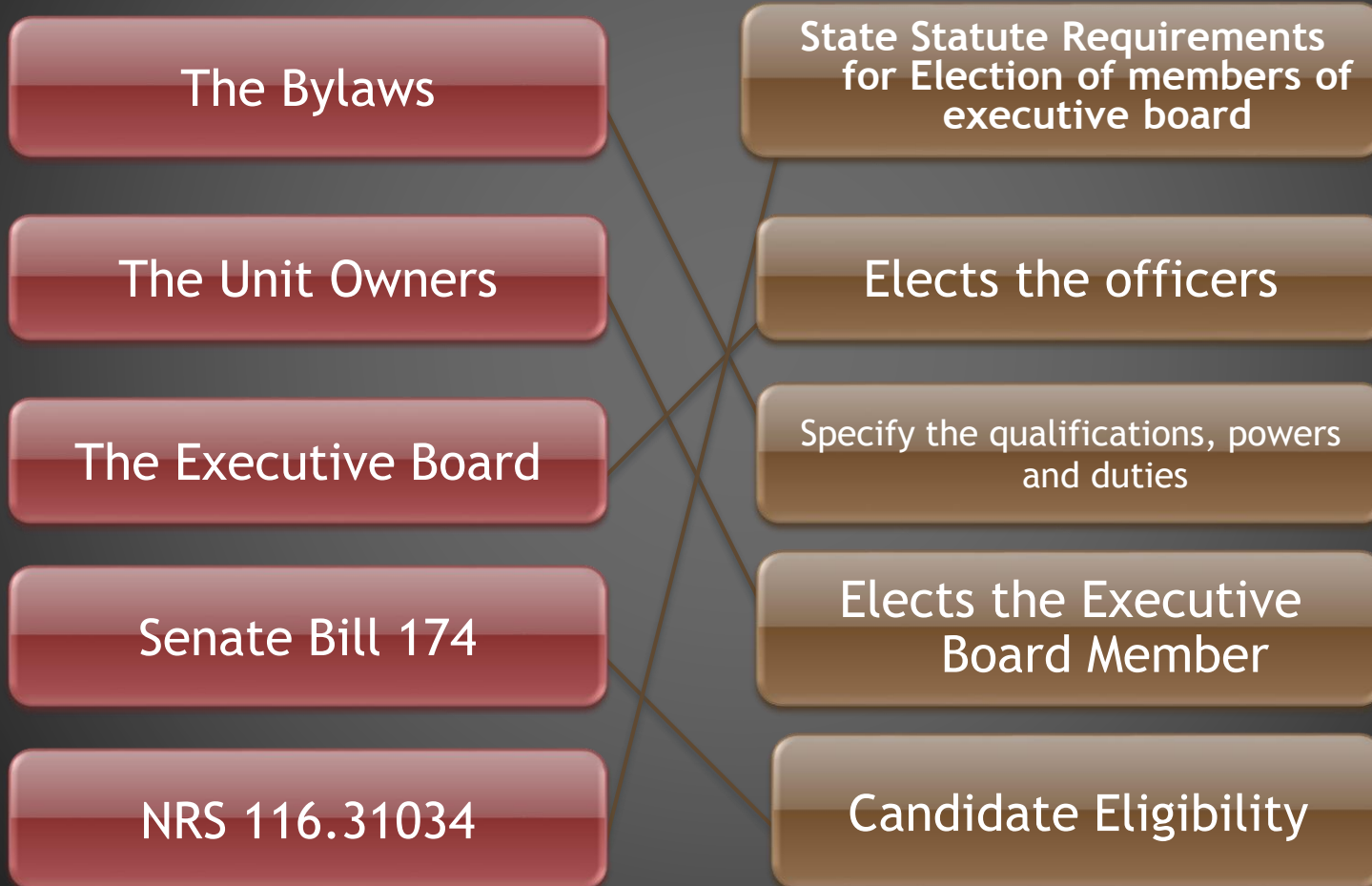
(e) Specify the officers who may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(f) Provide procedural rules for conducting meetings of the association;

*Which of the below is not covered in NRS 116.31034 ?  
Election of members of executive board and officers of  
association*

- A. Minimum amount of board members
- B. Maximum term of office
- C. Starting time of election meeting
- D. Establishing staggered terms
- E. Notices being sent out to unit owners of eligibility

# *Match the following*





# Election Rules

- Bylaws define:
  - Number of directors
  - Director's powers & duties
  - Terms of office
  - Procedural Rules
- NRS requires
  - Minimum of 3 directors
  - Maximum of 3 years per term but no term limits
  - Staggered terms, roughly equal number per year



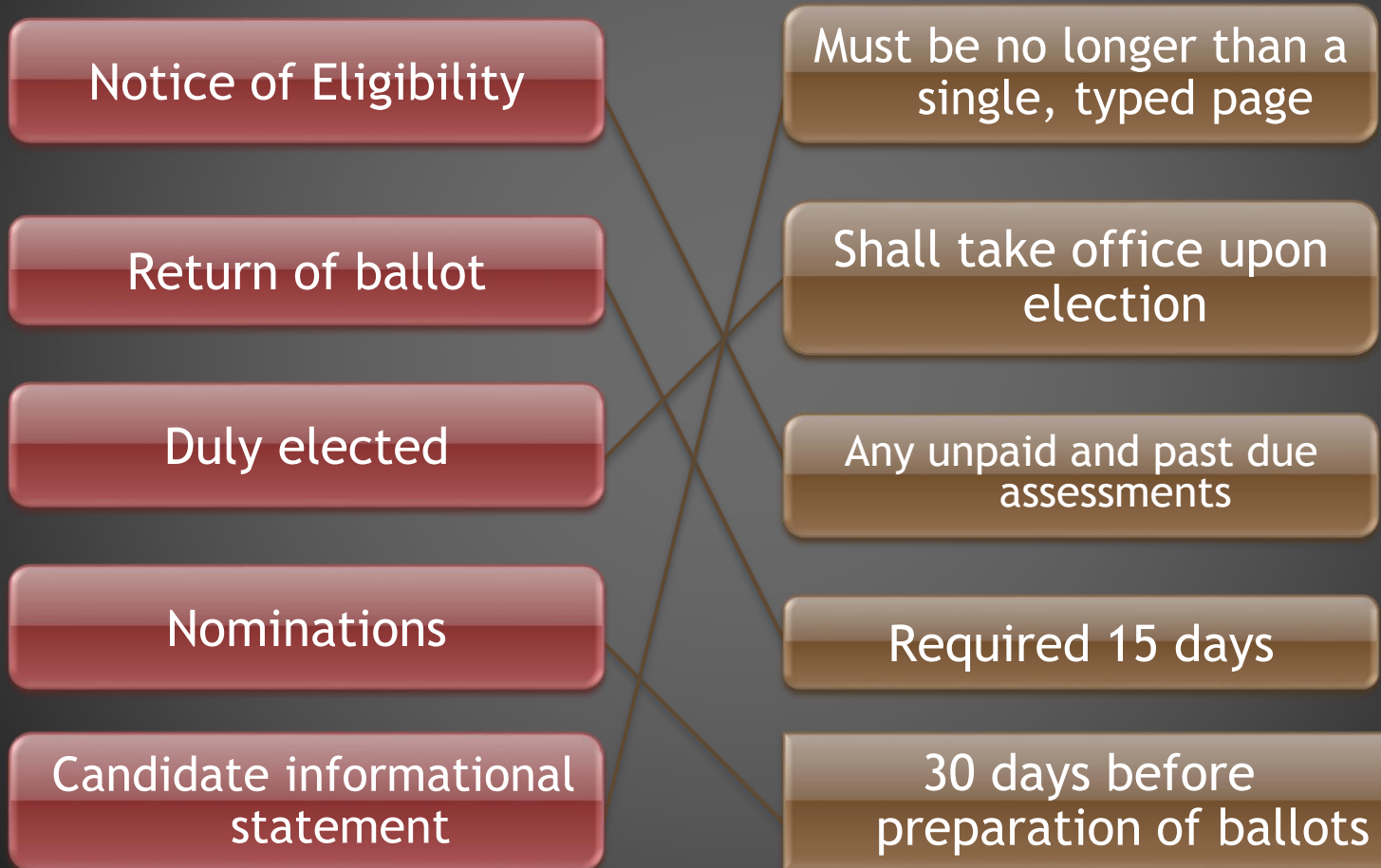
# FAQ

When does the 15 days to mail back the ballot start, at postmark or receipt of mailing?

## POSTMARK

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

# Matching

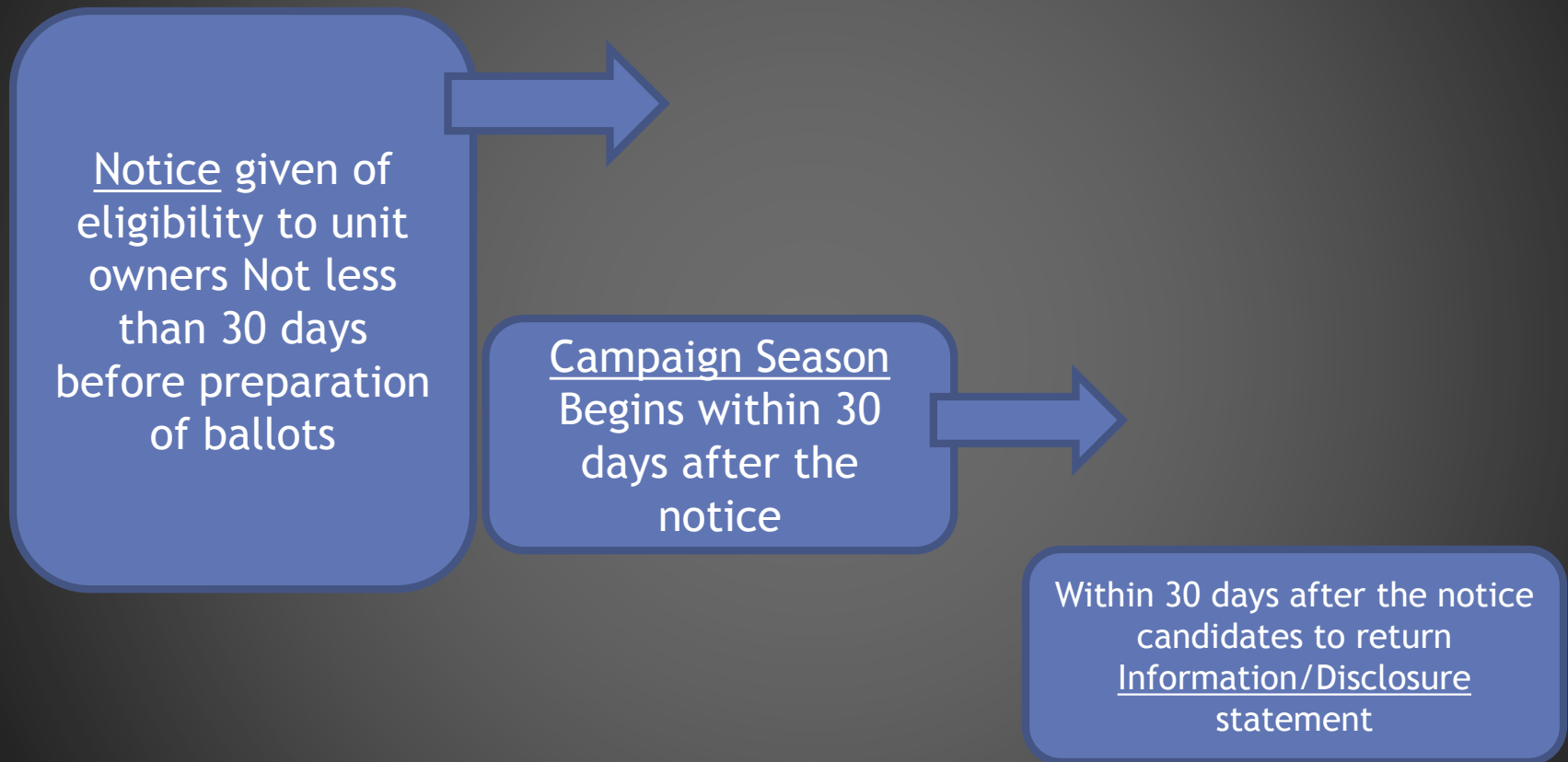


# Deemed Duly Elected or Conduct Election

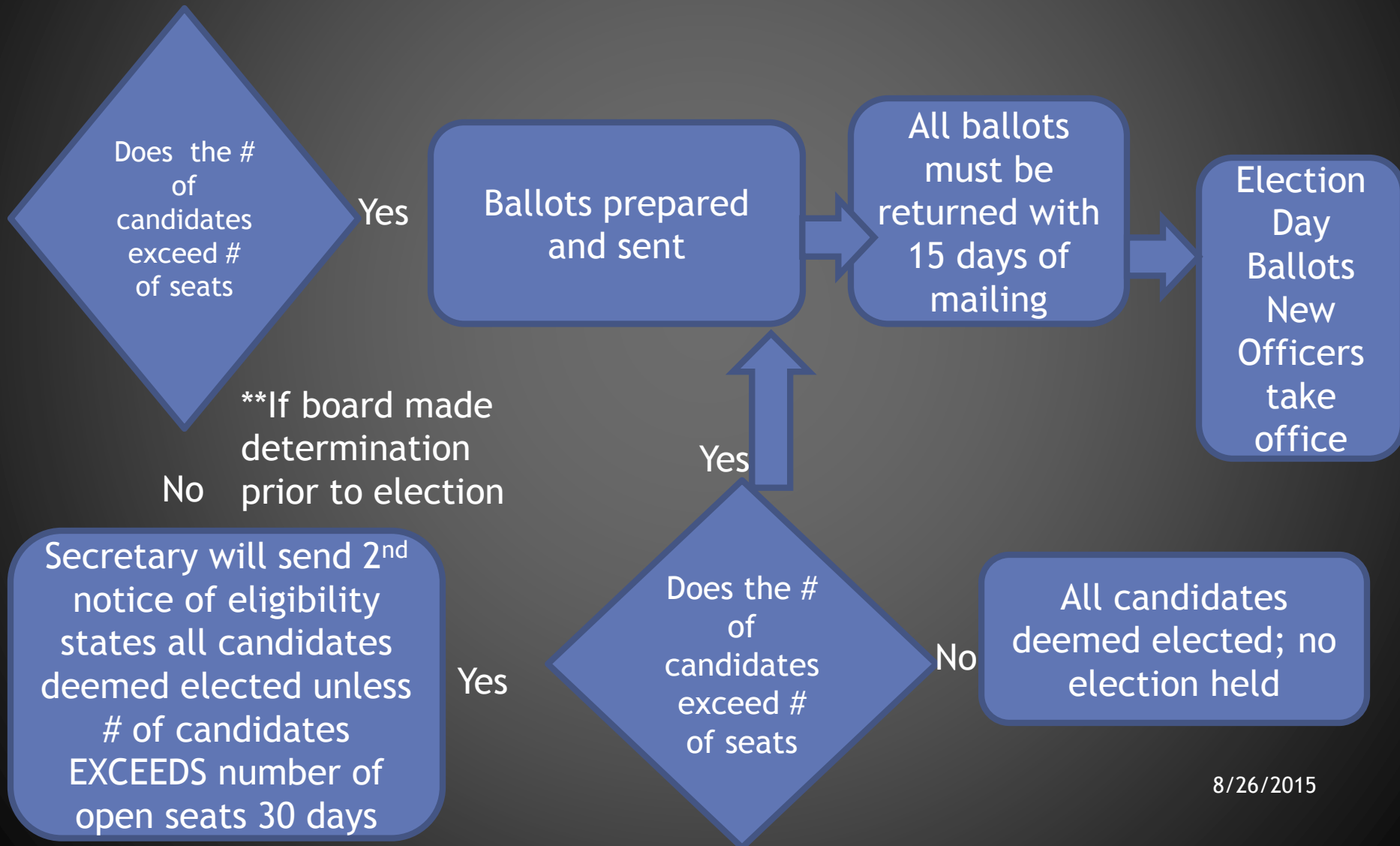
Before the board of directors causes the notice to be given to each unit's owner of their eligibility to serve as a member of the executive board, (not less than 30 days before the preparation of the ballot), the executive board may determine that if, at the closing of the prescribed period of nominations for membership on the executive board if the number of nominees is equal to or less than the number of members to be elected to the executive board whether or not to conduct the election either as deemed elected or conduct election by accepting nominations and then sending out ballots.

**MAIN POINT!** The board needs to make this determination before the cause of notice of eligibility is sent out. The board will make this determination at a executive board meeting , if the association will be using the “deemed elected” option. Unless this determination is already listed in the bylaws.

# Nevada HOA Election Process



# Nevada HOA Election Process



# What if there aren't enough candidates for current election? (NRS 116.31034)

## Second Notice to Unit Owners

- Decide deemed duly elected procedure before the election

- Consult governing documents

- Unless the election committee receives more qualifying nominations than there are seats within 30 days after the notice is sent, the association will not prepare ballots

- The nominated candidates are deemed duly elected

- The association will mail out a notice to owners stating the candidates were elected

- Adds 30 days to the election process



# FAQ –Board Vacancies between terms

What about Board Vacancies between terms?

Officers and members of the executive board:

(c) Elect members of the executive board, but unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association, the executive board may fill vacancies in its membership for the unexpired portion of any term or until the next regularly scheduled election of executive board members, whichever is earlier. Any executive board member elected to a previously vacant position which was temporarily filled by board appointment may only be elected to fulfill the remainder of the unexpired portion of the term. (NRS 116.3103)



# Matching



*A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either (is the below statement true or false?)*

# TRUE or FALSE?

a) Send before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

- (1) Must be no longer than a single, typed page;
- (2) Must not contain any defamatory, libelous or profane information; and
- (3) May be sent with the secret ballot mailed pursuant to subsection 11 or in a separate mailing;

Are all the following  
statements either

**TRUE** or FALSE?

Unit owners can display political signs

The HOA may limit signs to 24x36 inches

If the unit is occupied by a tenant, his/her written permission is required  
Signs must conform to applicable federal, state, local laws

The owner is restricted to one sign per candidate, political party or ballot question

**NRS 116.325 Right of units' owners to exhibit political signs in certain areas; conditions and limitations on exercise of right.**

NRS allows the candidate to communicate campaign material directly to the units' owners, provide to the candidate:

(1) A list of the mailing address of each unit, which must include the names of the units' owners or the name of any tenant of a unit's owner

TRUE or FALSE?

Actual NRS 116.31034

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner;

If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

# Matching



# *Three Envelope System Match*





*A quorum is required to count ballots  
The Executive board counts the ballots  
The secret written ballots must be opened and counted at a  
meeting of the Executive session*

TRUE or FALSE?

**NRS 116.31034**

(c) A quorum is not required for the election of any member of the executive board.

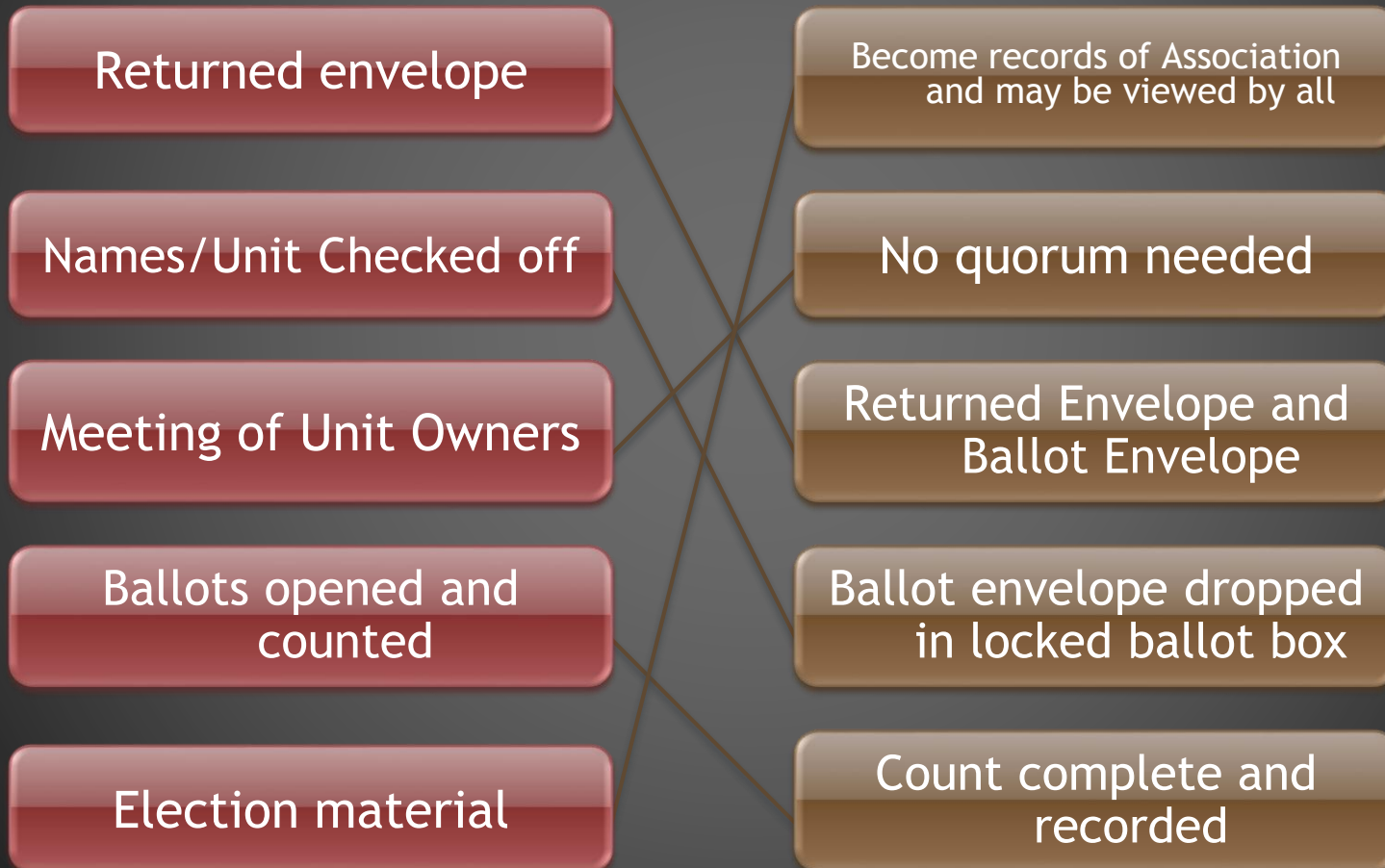
(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

# *Election Day Process*

## *Match the following*







# TRUE or FALSE?



*Directors take office immediately.*

*Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability*

*Any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause*

# TRUE or FALSE?

## **NRS 116.31036 Removal of member of executive board.**

1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section, the number of votes cast in favor of removal constitutes:

- (a) At least 35 percent of the total number of voting members of the association; and
- (b) At least a majority of all votes cast in that removal election.

# *Which of the following, is not a true statement for removal meetings?*

- A. To call a removal election, the units' owners must submit a written petition
- B. A removal election is called and exercised through secret ballot
- C. A quorum is required to be present when the secret written ballots are opened and counted at the meeting
- D. A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association
- E. The executive board shall set the date for the meeting to open and count the secret written ballots , not later than 90 days after the date on which the petition was received.

**NRS 116.31036 Removal of member of executive board.**

# Steps toward a removal

- A removal election may be called by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association.
- To call a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this subsection and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If a removal election is called pursuant to this subsection and:
  - (a) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to this section:
  - (1) The secret written ballots for the removal election must be sent in the manner required by this section not less than 15 days or more than 60 days after the date on which the petition is received; and
  - (2) The executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots and not later than 90 days after the date on which the petition was received



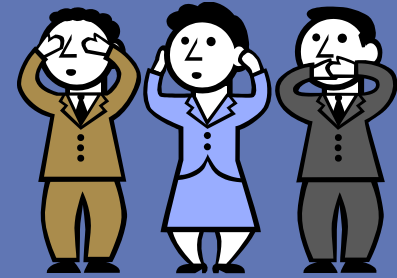
# Removal Examples

- In a 100-Unit HOA ...
  - 40 ballots returned: 35 in favor, 5 against - Pass
    - 35% and majority of votes cast voted to recall
  - 25 ballots returned: 24 in favor, 1 against - Failed
    - 35% level not reached even though a majority voted for removal
  - 70 ballots returned; 35 in favor, 35 against - Failed
    - 35% level reached but not a majority



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# Avoiding Election Fraud



- CURRENT DIRECTORS and CANDIDATES MUST NOT HANDLE BALLOTS
- Community Managers typically conducts elections for the HOA
- Nominations & Elections Committee
  - Owners NOT running for election
- Independent inspectors/counters- CPA Firm
- Tampering with the results of an election is:
  - A Class D Felony, punishable by 1 to 4 years in prison and up to a \$5,000 fine ( NRS 193.130 Categories and punishment of felonies
- NRS 116.31107 Voting by units' owners: Prohibited acts: penalty. Changing or falsifying a voter's ballot



*New Board members have reporting requirements once elected?*

**TRUE** or FALSE?

**NRS 116.31034** 15. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to [NRS 116.31158](#).





# What is Cumulative Voting?

(Check your bylaws- some associations voted not to use.

## Cumulative Voting Defined

"Under cumulative voting, the number of votes each unit owner gets is based on the number of candidates available. "If you have five candidates for your board and you vote for only one person, that person gets five votes. If you vote for two candidates, each gets 2.5 votes. That allows minority shareholders—which has nothing to do with race, gender, or religion but means people who disagree with the majority of the board—are assured access at the table. They can put all their votes toward candidates that agree with them, making it more likely they'll have representation on the board, even if it's not a majority.

In short, under cumulative voting, you can give your vote more weight than if your association didn't have cumulative voting. "If five people are running for my board and I get five votes,".

"I can throw them all to one person."







# Quick Q & A



# Q&A Elections

Q: Does NRS require the associations to list on the ballots if the association uses **cumulative voting**?

A: Yes - if cumulative voting is allowed by the documents the ballot should specify - this may be addressed in the bylaws



# Q&A Elections

Q: Can the association not distribute a disclosure?

A: yes, if the disclosure contains information that is believed to be defamatory, libelous, or profane.

Q: Once there is a change of board members does the Ombudsman office need to be notified?

A: Yes, Form 623 Change(s) of Board of Directors within 30 days of election.



# Q&A Elections

Q: If there are not enough members or no one comes forward to be on the board, will the Ombudsman office ever step in or would the control of the association go to the courts to assign receivership?

A: It is a very expensive process for the association to have a receiver and the Division is not likely seek receivership for a lack of participation by the owners.



# Q&A Elections

Q: The NRS states that a person disclose “good standing” or not. Can an association make “good standing” a stipulation for eligibility to run for a board position?

A: The governing documents may say board members must be in good standing. If consistent with their governing documents a board could make that a rule which would require notice prior to enforcement. The difficulty may come into play when the owner thinks they are in good standing but the association does not.




# Q&A Elections

Q:NRS states that a person is only allowed the one page candidate informational page that the community manager sends out. If a person paid for the mailing themselves could they send out additional pages of candidate information directly to the unit owners and the community manager does not need to review . Can the association stop them from sending out additional candidate information?


A:NRS 116.31034(13) - allows a candidate to have a statement sent by the association or for the association to provide a list of addresses to the candidate for the candidate to send out whatever they want to send. The law uses an “or” so the candidate must either provide the one page statement or get the mailing list. If the candidate wants to get its own mailing list not through the association and campaign by mailing things to owners - that is their prerogative.

NRS 116.31034(12) does not allow the association to unreasonably interfere with campaigning.

# Q&A Elections



Q: The next question was confusion on “one member of the executive board and one officer of the association who is not a member of the executive board”. the example was presented that a person was the treasurer voluntary but not elected to the board.



A: Yes - officers need not be board members , but only unit owner has the right to vote





# Summary



# *HOA Election Highlights*

1. Bylaws specify the qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies
2. The units owners shall elect an executive board of at least three members
3. The governing documents of the association must provide for terms of office that are staggered in such a manner
4. Notices of eligibility sent out/ secret ballot process

# *HOA Election Highlights*

5. Candidates make a good faith effort to disclose any financial, business, professional or personal relationship or interest which would appear as conflict
6. Unit owners elect directors and directors elect officers
7. Married couples can not be on the board together; unless if the situation meets necessary criteria per NRS116.31034

# *HOA Election Highlights*

8. The unit owner has 15 days from the postmark to return the ballots.
9. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.
10. The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

# *HOA Election Highlights*

11. The members of the executive board and the officers of the association shall take office upon election. The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations.
12. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability.
13. NRS 116.31034 Election of members of executive board and officers of association  
NRS 116.31036 Removal of member of executive board

# Questions



[www.red.nv.gov](http://www.red.nv.gov)


Phone:

702.486.4480/877.829.9907


Send questions to :

[OMBCLASSES@red.state.nv.us](mailto:OMBCLASSES@red.state.nv.us)

2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104



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# Reference Slides





# *Fast Reference Election Process*

NRS 116.007 “Affiliate of a declarant” defined.

NRS 116.3106 Bylaws

NRS 116.31065 Rules

NRS 116.31068 Notice to units’ owners

NRS 116.3103 Power of executive board to act on behalf of association; members and officers are fiduciaries; duty of care; application of business-judgment rule and conflict of interest rules; limitations on power

NRS 116.31032 Period of declarant’ s control of association; representation of units’ owners on executive board

NRS 116.31034 Election of members of executive board and officers of association; term of office of member of executive board; staggered terms; eligibility to serve on executive board; required disclosures; procedure for conducting elections; certification by member of executive board of understanding of governing documents and provisions of chapter.

NRS 116.31035 Publications containing mention of candidate or ballot question: Requirements; limitations.

NRS 116.3108 Meetings of units’ owners of association; frequency of meetings; calling special meetings; requirements concerning notice and agendas; requirements concerning minutes of meetings; right of units’ owners to make audio recordings of meetings.



# *Fast Reference Election Process*

NAC 116.385 Executive board: Submission to Division of contact information for members.

NRS 116.325 Right of units' owners to exhibit political signs in certain areas; conditions and limitations on exercise of right NAC 116.405  
Executive board: Determination by Commission of whether members have performed their duties

NRS 116.31036 Removal of member of executive board.

NRS 116.311 Voting by units' owners; use of absentee ballots and proxies; voting by lessees of leased units; association prohibited from voting as owner of unit; voting without a meeting.

NRS 116.31105 Voting by delegates or representatives; limitations; procedure for electing delegates or representatives

NRS 116.31107 Voting by units' owners: Prohibited acts; penalty.

NRS 116.41095 Required form of information statement

# Good Faith Disclosure

A unit owner who is qualified nominates himself or herself.

NRS116.31034 (8a,b,) Each person nominated as a candidate for membership must:

- Make good faith effort to disclose any financial, business, professional or personal relationships or interest that would appear to a reasonable person to result in a potential conflict of interest
- Disclose whether the candidate is a member in good standing. A candidate shall not be deemed to be in “good standing” if the candidate has any unpaid and past due assessments, or construction penalties.



# Good faith Disclosures vs Information Statement

The good faith disclosure provides any financial, business, professional or personal relationships or interest that would appear to a reasonable person to result in a potential conflict of interest ( can be numerous pages of information)

Vs

The information statement is used as an avenue for campaigning. A candidate nominates themselves and then provides a disclosure statement which must be provided to owners (Must be no longer than a single, typed page)

8/26/2015



# Disclosures

The association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or; in the event ballots are not prepared and mailed pursuant to this subsection 6, in the next regular mailing of the association.

The association is not obligated to distribute any disclosure if the disclosure contains information that is believed to be defamatory, libelous or profane.

\*NRS states you must “disclose” good standing, it is recommended checking governing documents confirm your associations eligibility criteria.

8/26/2015



**5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:**

**(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:**

**(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and**

**(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.**

**(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.**

# NRS 116.31032

1. Regardless of the period provided in the declaration, a period of declarant's control terminates no later than the earliest of:

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter



# Information Statement

NRS116.31034

13. A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement.

The candidate informational statement:

- (1) Must be no longer than a single, typed page;
- (2) Must not contain any defamatory, libelous or profane information; and
- (3) May be sent with the secret ballot mailed pursuant to subsection 11 or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than \$5 or by electronic mail at no cost:

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# Information Statement

NRS116.31034

13.B

The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

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# Information Statement

NRS116.31034

13.

II. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the association must send to each owner of a time share within the time share plan the campaign material provided by the candidate. If the campaign material will be sent by mail, the candidate who provides the campaign material must provide to the association a separate copy of the campaign material for each owner and must pay the actual costs of mailing before the campaign material is mailed. If the campaign material will be sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

8/26/2015



# Immune from criminal or civil liability

NRS116.31035

1. If an official publication contains any mention of a candidate or ballot question, the official publication must, upon request and under the same terms and conditions, provide equal space to all candidates or to a representative of an organization which supports the passage or defeat of the ballot question.

2. If an official publication contains the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and under the same terms and conditions, provide equal space to opposing views and opinions of a unit's owner of the common-interest community.

3. If an association has a closed-circuit television station and that station interviews, or provides time to, a candidate or a representative of an organization which supports the passage or defeat of a ballot question, the closed-circuit television station must, under the same terms and conditions, allow equal time for all candidates or a representative of an opposing view to the ballot question.

4. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 1, 2 or 3.

5. As used in this section:

(a) "Issue of official interest" means:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, elections; and

(2) The enactment or adoption of rules or regulations that will affect the common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner.

8/26/2015



# NRS 116.31034

1. Except as otherwise provided in subsection 5 of [NRS 116.212](#), not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at **least three members**, all of whom must be units' owners. The executive board shall **elect the officers** of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

- (a) Members of the executive board who are appointed by the declarant; and
- (b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection

# NRS 116.31032

(a) Sixty days after conveyance of 75 percent of the units that may be created to units' owners other than a declarant or, if the association exercises powers over a common-interest community pursuant to this chapter and a time-share plan pursuant to [chapter 119A](#) of NRS, 120 days after conveyance of 80 percent of the units that may be created to units' owners other than a declarant;

(b) Five years after all declarants have ceased to offer units for sale in the ordinary course of business;

(c) Five years after any right to add new units was last exercised; or

(d) The day the declarant, after giving notice to units' owners, records an instrument voluntarily surrendering all rights to control activities of the association.

2. Not later than 60 days after conveyance of 25 percent of the units that may be created to units' owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by units' owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to units' owners other than a declarant, not less than one-third of the members of the executive board must be elected by units' owners other than the declarant.

(Added to NRS by [1993, 2353](#); A [2001, 2490](#); [2011, 2433](#))

# NRS 116.31032

1. the declaration may provide for a period of declarant's control of the association
2. during which a **declarant**, or **persons designated by a declarant**, may appoint and remove the officers of the association and members of the executive board
3. A **declarant** may **voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period** and
4. in that event, the declarant may require, for the duration of the period of declarant's control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

# Definitions:

e•lec•tron•ic

carried out or accessed by means of a computer or other electronic device, especially over a network.

for•mat/'fôr,mat/

noun

the way in which something is arranged or set out.

verb

(especially in computing) arrange or put into a format.